



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

<b>Property</b>	<b>115, 32 &amp; 72 Candle House, 1 Wharf Approach, Leeds, LS1 4GH</b>
<b>Applicants</b>	<b>(1) LEE MURDOCH  (2) DAVID OVERSTREET  (3) AYESHA GRAINGER  (4) DAVID HEWLETT</b>
<b>Respondent</b>	<b>GRANARY WHARF (CANDLE HOUSE) MANAGEMENT LIMITED</b>
<b>Case number</b>	<b>MAN/OODA/LSC/2022/0015 MAN/OODA/LSC/2022/0024 MAN/OODA/LSC/2022/0025</b>
<b>Date of Application</b>	<b>14<sup>th</sup> February 2022 and 3<sup>rd</sup> March 2022</b>
<b>Type of Application</b>	<b>S27A Landlord and Tenant Act 1985 S20C Landlord and tenant Act 1985 Paragraph 5A of schedule 11 Commonhold and Leasehold Reform Act 2002</b>
<b>Tribunal Members</b>	<b>Tribunal Judge, Katherine Southby Tribunal Member Jenny Jacobs</b>
<b>Date of Decision</b>	<b>25<sup>th</sup> July 2023</b>

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**DECISION and REASONS**

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## **DECISION**

- A. The service charges payable by the Applicants for the period 1/1/2016 to 31/12/2021 shall be varied as shown in the Schedule to this order.
- B. The Respondent's costs of this referral to the Tribunal to be added to the service charge account shall be limited to 25%.
- C. The Respondent's costs of these proceedings to be charged against the Applicants as an administration charge shall be limited to 25%.

## **BACKGROUND**

- 1. The Tribunal has received three applications under s27A of the Landlord and Tenant Act 1985. The Applicants are leaseholders of individual flats and the Respondent is the Management Company.
- 2. The Application of Mr Murdoch was stayed by the Tribunal at the hearing as the Tribunal was provided with uncontested evidence, confirmed by Ms Harrison who had attended to represent Mr Murdoch, that Mr Murdoch was the subject of a Bankruptcy Order. As such Mr Murdoch has no standing to bring or continue these proceedings without the official receiver (as trustee) becoming, at least, the co-claimant.
- 3. The Application of Mr Overstreet and Ms Granger was made in relation to the years 2016-2021 but subsequent correspondence suggests that their application is in fact limited to the years 2020 onwards, that being the point at which they purchased their flat.
- 4. The application before the Tribunal by Mr Hewlett was for the determination of the reasonableness and payability of service charges for the years 2016-2021. The Applicants also seek an order under Section 20C Landlord and Tenant Act 1985 that all or any of the costs incurred, or to be incurred, by the landlord in connection with these proceedings before the First-tier Tribunal are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicants, together with an order pursuant to Commonhold and Leasehold Reform Act 2002, Schedule 11, Paragraph 5A, reducing or extinguishing the Applicant's liability to pay administration charges in respect of litigation costs.

## **THE PROPERTY**

- 5. The Tribunal carried out an inspection of the Property on 21 October 2022 attended by Mr Overstreet, Mr Neil Walker, Director of the Respondent and Mr Khan of Watsons Property Management. No evidence was taken at the inspection. The Tribunal was shown the external and internal security cameras, the Electricity Meter Room, the entrance lobby including the Green Wall, fire door and electronic noticeboard, the Bin Store, the lifts, one of which was out of order. The Tribunal were taken up in the lift to inspect the

heating pipes, the roof garden/decking. We inspected floors 21, 15, 4, 3 and 2 and were shown water-marked carpets which appeared to be from bathroom leaks. The Tribunal were also taken to the Estate Management Office and shown the monitoring system from that office, including CCTV.

## THE LEASE

6. The Tribunal was provided with a copy of the Applicant's lease. The relevant provisions of the Lease for the purposes of the Tribunal are as follows:

## THE LAW

7. S47 of the Landlord and Tenant Act 1987 states as follows:  
***Landlord's name and address to be contained in demands for rent etc.***  
*(1) Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—*
  - (a) the name and address of the landlord, and*
  - (b) if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.**(2) Where—*
  - (a) a tenant of any such premises is given such a demand, but*
  - (b) it does not contain any information required to be contained in it by virtue of subsection (1),**then (subject to subsection (3)) any part of the amount demanded which consists of a service charge ("the relevant amount") shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.*
8. Section 27A(1) of the 1985 Act provides:  
*An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to—*
  - (a) the person by whom it is payable,*
  - (b) the person to whom it is payable,*
  - (c) the amount which is payable,*
  - (d) the date at or by which it is payable, and*
  - (e) the manner in which it is payable.*

The Tribunal is "the appropriate tribunal" for these purposes, and it has jurisdiction to make a determination under section 27A of the 1985 Act whether or not any payment has been made.
9. The meaning of the expression "service charge" is set out in section 18(1) of the 1985 Act. It means:

*... an amount payable by a tenant of a dwelling as part of or in addition to the rent—*

- (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements, or insurance or the landlord's costs of management, and*
- (b) the whole or part of which varies or may vary according to the relevant costs.*

In making any determination under section 27A, the Tribunal must have regard to section 19 of the 1985 Act, subsection (1) of which provides:

*Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—*

- (a) only to the extent that they are reasonably incurred, and*
- (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;*

*and the amount payable shall be limited accordingly.*

10. “Relevant costs” are defined for these purposes by section 18(2) of the 1985 Act as:

*the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.*

11. The interpretation of those tests is dealt with in a number of cases. In *Forcelux Limited v Sweetman*<sup>1</sup> the Lands Tribunal stated (at para 40):  
“The question I have to answer is not whether the expenditure for any particular service charge items was necessarily the cheapest available, but whether the charge that was made was reasonably incurred”

12. In *Metropolitan Property Realizations Limited v Silver* the test was summarised by HHJ Reid QC as meaning that:

“It was not necessary to show that the amount of costs were the cheapest or that all landlords would have acted the same way.”

13. The question to be decided was summarised in *City of Westminster v Fleury* by HHJ Alice Robinson<sup>2</sup> as follows:

“The question is whether the decision . . . was a reasonable one in all the circumstances, even if other reasonable decisions could also be taken.”

14. By section 27A of the 1985 Act, the Tribunal may determine whether a service charge is payable and if so:

- (a) the person by whom it is payable,
- (b) the person to whom it is payable,
- (c) the amount which is payable,
- (d) the date at or by which it is payable, and
- (e) the manner in which it is payable.

## **ISSUES**

15. The Tribunal is asked to consider the Service Charge years from 2016 to 2021. Issues the Applicants have raised before the Tribunal for determination are as set out in the Scott Schedule Spreadsheet which formed the basis for the structure of the hearing. This schedule contains several hundred individual items; however these were grouped by the Applicants, and it is agreed by the parties that the list of issues is as follows:

- a) The Lobby
- b) Legal Costs
- c) EWS1
- d) Pre-paid Electricity Meter
- e) Management Charges
- f) Reasonableness
- g) Legal Costs
- h) GWEML
- i) Other miscellaneous issues 9, 10 and 11

16. Item 11 entitled 'New items' arose from an application by the Applicants dated 23 December 2022 and was objected to by the Respondent on the basis that the points of dispute are already very numerous and that these points could have been included earlier. The Tribunal concluded that these items did not raise new issues for the Respondent to address, and that there was no detriment to the Respondent in them being included.

17. We are mindful that the Applicant has raised an extremely large number of individual items within each of the larger subheadings. The individual items do not always fall neatly within the same category to be grouped together in our decision-making. We have attempted to take a proportionate approach – both in terms of the amount of time spent on each item within the hearing, and the approach to determining each issue. This means that in some cases we have not dealt with every individual line of the Scott Schedule specifically in our reasoning but have applied general principles based upon the evidence presented to us. Where we did not hear specific oral evidence on a point in the Scott Schedule we have carefully considered the written representations provided to us by both parties and the documents provided to us. We are mindful that the burden of proof is on the Applicant to persuade us on the balance of probabilities that an item they raise is not reasonable or reasonably incurred, and if we do not explicitly say so in relation to every individual item then where we have allowed an item in full it is because we were not persuaded by the evidence presented to us that this threshold had been reached.

18. We observe that many of the Applicants' complaints are that the conduct of the Respondent does not amount to best value. This is not a requirement, and the test we have applied is whether or not the costs incurred by the Respondent are reasonable and reasonably incurred, not that they are necessarily the very best or cheapest solution to a given situation.

## **HEARING**

19. The hearing took place face to face at the Bradford Tribunal centre on 27 & 28 February and 1<sup>st</sup> March 2023 with day 1 being used for reading and Days 2 and

3 being used for the oral hearing. Mr Overstreet and Mr Hewlett attended. Ms Harrison, having initially purported to have attended to represent Mr Murdoch instead attended as a witness with the consent of the Respondent. Mr McDonald of Counsel represented the Respondent. Ms Goodrich and Ms Freeman from the Respondent's solicitors also attended. Their witness was Mr Khan of Watsons Property Management who attended by video link.

20. The Tribunal had before it
- a) Bundle of 1425 pages
  - b) Supplementary bundle of 165 pages
  - c) Bundle of service charge accounts 2016-2021 Candle House and GWEML 93 pages
  - d) Additional late evidence provided at the hearing – i.e. Tomlin Orders x2, EWS1
  - e) Following the hearing and at the request of the Tribunal the parties provided a letter dated 24 March from the Respondent's solicitors together with a List of Further Documents/information
  - f) Applicants' response to that letter and list dated 31 March 2023

## **EVIDENCE and DISCUSSION**

### **Issue 1 - Lobby**

21. It is common ground between the parties that during the period 2017 to 2020 there was work done to the lobby areas of Candle House. The Applicants' position as advanced through their written submissions and through the oral representations of Mr Overstreet is that the work to the lobby was an upgrade, and therefore outside the scope of the service charge. They also argue that in any event even if it is not an upgrade and is recoverable through the service charge account, it represents an overall project the value of which should have triggered a statutory consultation process, the absence of which limits the recoverability of the invoices to £250 per tenant.
22. The Respondent's position is that the work done to the Lobby is renewal of the common parts and therefore the sums concerned are recoverable under paragraph 5.4 of Schedule 4 of the Lease. Mr McDonald suggests that it is renewal because it is a replacement of what was there before and not a wholly novel construction.
23. The Tribunal was referred to the items set out in the Scott Schedule and an additional invoice for £31,039.20 at page 1129 which was for works to the lobby but which had been omitted from the Scott Schedule. The Tribunal was also referred to email communication from the Management Company regarding the Lobby Refurbishment [page 1117] dated 16 December 2018 which includes before and after photographs and states *'We have now finished Phase 1 of the lobby works. As stated in a previous email the cost of these initial works were covered by an agreed loss adjustment through our insurance. Delivering a brand-new lobby for residents was much more cost effective than removing the water damaged flooring and skirting, fully drying out all of the flooring bed and slates, then reinstalling the same floor.'*

*Due to Oliver's Design House high level of workmanship the floor is now level. It was previously out by 4". We are looking to commence Phase 2 of the lobby works early next year. We have already commissioned Tyson Lighting to come up with a lighting design concept to bring out the most from the new lobby.'*

24. A separate communication [page 1117] headed 'Your Director team: Achievements' states 'installed brand new (approx. 20k) lobby refurbishment at no cost to leaseholders.'
25. The Tribunal heard oral evidence from Mr Khan, Property Manager at Watsons that there were lots of different contractors who came in to look at different aspects of the lobby work. Watsons did not oversee the work or project manage it, with the Directors of the Respondent taking the lead, including over whether there were any necessary consultations.

26. List of Lobby invoices queried by the Applicants

Date	Amount (£)	Contractor	Subject of Invoice	Page ref
27/11/2017	600	Pip	Design	405
15/11/2018	1800	Tyson Lighting	Light design	411
28/11/2018	9123.20	Oliver's Design House	Entrance hall extras	499
28/11/2018	9123.20	Unknown – no invoice provided. Ledger entry referenced	Major Works entrance hall extras	499
4/3/2019	1599.60	Vesa Mount	Digital Signage	412
13/3/2019	75	Neil Walker	Reinstalling media unit	501
1/11/2019	350	JAM structural design	Design of lighting support system	415
14/11/2019	22725.36	Tyson Lighting	Phase 1 minus 50% already paid design fee	417
14/11/2019	31039.20	Olivers House	Supply and installation of lighting	1116
12/08/2020	13458	Vistafolia	Green wall	436

27. We first considered whether the works to the lobby were repairs or improvements. We note that we did not have the benefit of any direct evidence from the Respondent's directors to support Mr McDonald's assertions. Nor were we provided with any information by the Respondent to set out the decision-making process, or to refute the Applicant's assertion that the lobby, as per the photograph was previously a largely plain painted room with basic flooring and lighting and had

become a significantly more elaborate entrance lobby with feature 'green wall', wood cladding and altered lighting arrangements.

28. We considered the wording at paragraph 5.4 of Part B of Schedule 4 of the Lease which lists as Services for which costs are recoverable through the Service Charge *'Inspecting, rebuilding, repointing, repairing, cleansing, renewing and otherwise treating as necessary and keeping the Common Parts comprised in the Building and every part thereof in good and substantial repair, order and condition and renewing and replacing all worn or damaged parts thereof.'*

29. In our view, and in particular having regard to the before and after photographs we find that a significant proportion of these works went beyond renewing and replacing and were improvements. We find this conclusion to be consistent with the tone and content of the email correspondence sent to residents by the Directors of the Respondent.

30. We accept that the Respondent was obligated to carry out works to comply with their repairing obligation following the water damage, however it would appear that this work was largely covered through insurance, and therefore not passed on to the tenants through the service charge. We are not presented by the Applicants with queried invoices for flooring, repairs to the ceiling, repainting for example. The works queried by the Applicants instead comprise lighting design, supply and installation of the lighting, the installation of the green wall, and the installation of the electronic noticeboard. In our view this work represents optional improvement.

31. It is clear from the pre-refurbishment photograph that there was adequate lighting in the lobby prior to the works being carried out, and no evidence was provided from the Respondents to suggest to the contrary, or that they were advised for safety reasons to renew inadequate lighting. We find the evidence of the Applicant persuasive on this point and therefore find that redesign of the lighting and the associated supply and fitting of that redesign is an improvement – being a new 'concept to bring out the most from the new lobby'. Likewise, the addition of the green wall is not a repair which was necessary to comply with repairing obligations. A repair or renewal of the noticeboard, if indeed that was damaged, would have been a like-for-like replacement instead of a £1599.60 installation of an electronic alternative.

32. We therefore disallow the sums listed in the table above and find them to be unrecoverable through the service charge. We have not disallowed the £31.99 for a magnetic noticeboard, as our understanding is that there was a noticeboard in the lobby previously and therefore this appears to be a like-for-like replacement/renewal. We note that the Applicants had also queried the absence of compliance with consultation requirements in respect of major works. We note that non-compliance was conceded by the Respondent during the course of the hearing, but it does not arise in our calculations due to our findings above.

## **Issue 2 – Legal Fees G01LS190**

33. This aspect of the claim is brought by the Applicants in respect of the legal fees arising out of legal action initially taken by the Respondent. The Tribunal is not in receipt of the pleadings in this matter and so the full scope of the claim is not before us but it appears that the Respondent commenced proceedings in July 2020 seeking injunctive relief against two Applicant leaseholders (Mr Overstreet and Ms Grainger)



for allegedly interfering with CCTV cameras. Mr Overstreet and Ms Grainger subsequently issued a Part 20 claim against the Respondent as well as its directors Mr Nixon and Mr Walker individually.

34. The Tribunal was provided with two Tomlin Orders arising in the course of these proceedings, with the consent of both parties. The first dated September 2020 dismissed a claim by the Respondent for an injunction. The second dated 21 October 2022, (by which time the Part20 claim against Mr Nixon and Mr Walker has been issued) stays the claim on a basis which included mutual agreement in respect of conduct concerning CCTV equipment and payment of £120,000 of costs by the leaseholders to the Respondent.

35. The Applicant refers to a series of items in this tab of the Scott Schedule which it says total £176,099.68 for the period up to December 2021. They also reference several items listed under Tab 11 of the Scott Schedule.

36. The Applicants' position is that

- a) the CCTV which was the subject matter of this case was installed by the Management Company in breach of the Management Deed.
- b) The CCTV duplicates monitoring equipment for the whole estate monitored by GWEML
- c) The Respondents had previously stated they have no obligation to enforce any terms of the Lease (in relation to a previous exchange of correspondence around pets)
- d) The Respondent directors claimed payment at £50-75 per hour in relation to this case which the Applicants state is unreasonable.
- e) An element of the sums invoiced in respect of legal fees related to the person defence of the directors and this element of the costs has not been split.
- f) The charges include other matters collected together in a file entitled 'nuisance leaseholders'

37. The Respondent's position is that it was reasonable to take and defend the proceedings, that the charges are recoverable under the terms of the Lease. Mr McDonald accepts that the Directors were not separately represented.

38. Our starting point was to consider the terms of the Lease. At Clause 5.1.2 the Management Company covenants with the Tenant to use its reasonable endeavours to provide any of the other services set out in the Schedule 4 that the Management Company reasonably considers necessary or appropriate at any time. Paragraph 7.15 of Schedule 4 includes *'any costs imposed on the Management Company and/or the Landlord in solving any dispute with any tenant or other cost reasonably and properly incurred by the Management Company and/or the Landlord and otherwise not recovered in taking or defending proceedings (including any arbitration) arising out of any lease of any part of the Estate or any claim by or against tenant thereof or by any third party against the Management Company and/or the Landlord as owners, tenant or occupier of any part of the Estate.'*

39. It is common ground between the parties that this was a dispute between the Management Company and a tenant (Mr Overstreet) and we note from the Tomlin Order that an agreement was reached which imposed a range of obligations on all parties. We are not persuaded that the Applicants have provided us with any evidence

to support the assertion that it was unreasonable for the Management Company to take these proceedings. It may have been possible to deal with the matter differently, and/or there may or may not have been merit to arguments on either side, but reasonableness in taking proceedings is not contingent upon them being unequivocally successful.

40. We note Mr Overstreet's argument that the CCTV cameras were placed on the outside of Candle House in what he asserts is a breach of the Management Agreement. This, we would suggest, is an argument which goes to the merits or otherwise of the original claim which has since been the subject of the Tomlin Order. We are not in a position to unpick the merits or otherwise of the case, we merely note that the elements of the claim fall within the scope of the Service Charge and therefore reasonable costs arising from taking the claim and/or resolving the dispute are recoverable under the terms of the Lease.

41. Similarly, we find that there is no merit in Mr Overstreet's argument that other breaches have not been pursued by the Respondent – the fact of the matter is that the Respondent is entitled to make such decisions as they see fit to ensure the maintenance and proper and convenient management and running of the Estate (as per para 7.14 of Schedule 4) and we are not persuaded that this assertion of possible past conduct causes us to conclude that this particular decision was unreasonable.

42. We have given careful thought to whether we consider the extent of the costs was reasonable. We accept that they were reasonably incurred by Freeths, and that they have been properly invoiced on the basis of time recording. We have insufficient information to conclude that the costs themselves are not reasonable, and we appreciate that the level of legal costs is in part a reflection of the way in which both parties to a piece of litigation conduct themselves and therefore may be in part out of the Respondent's control. However, we are concerned that there appears to be a lack of scrutiny by the Directors of the level of legal costs being incurred, which might have been higher had they been spending their own money rather than that of the leaseholders. Nevertheless, we do not make any deduction from the legal costs on this basis.

43. However, it is noteworthy that whilst the initial proceedings were brought solely by the Management Company, the defence of the Part20 claim was by the Directors personally and we note that the Tomlin Order includes a significant number of obligations which have correspondingly been agreed to by the Directors personally. Indeed, the obligations on the Management Company themselves within the Tomlin Order are relatively minor.

44. We do not see any provision in the Lease which would enable the cost of the personal representation of the Directors to be recoverable through the service charge. Indeed, precisely this type of circumstance is generally covered by Directors' Insurance – the cost of which is already borne by leaseholders through their service charge (e.g. page 187 – Directors and officer's insurance). We conclude from the fact that Freeths felt they were able to act for both the Management Company and the Directors, rather than sending either or both to seek separate advice and representation, that their positions were compatible and not in direct conflict with one another. Nevertheless, we do not accept that the legal costs incurred were identical irrespective of them being represented as part of the claim. Instructions will need to have been taken from them in their personal capacity in addition to instructions taken from the Management

Company, even in the absence of conflict, and the Tomlin Order reflects the extent to which the agreement reached significantly reflects obligations which they personally have accepted.

45. As a consequence, we find that not all of these legal costs fall within the scope of the Lease. No breakdown of these costs has been provided by the Respondent, or by their Solicitors, and therefore we are left in the unenviable position of having to estimate the extent to which these costs include an element of Directors' personal representation. We have by necessity had to take a broad overview in the absence of other information and estimate that 25% of the legal costs was solely attributable to the Directors. We discount this element of the Service Charge to this extent accordingly. The Applicants raise the issue in their written submissions that these proceedings continued up to November 2022 and therefore the legal costs for the 2022 Service Charge year are not yet known. This application concerns Service Charge years 2016 to 2021 and therefore we are unable to provide any determination in respect of 2022.

### **Issue 3 - EWS1**

46. The Applicants through Mr Overstreet raised a concern about the cladding report for Candle House being in their view 'inadequate' as they considered it was carried out by an unqualified individual and therefore the money spent on the report was in the Applicants' view inappropriately and unreasonably incurred. Mr Overstreet informed the Tribunal that properties within Candle House were impossible to sell as a consequence of mortgage lenders not accepting the EWS1 certificate as Mr Hindle who carried out the work is not a Chartered Engineer with the Institute of Fire Engineers.

47. The EWS1 report was provided to the Tribunal during the course of the hearing. We note that the report is in the form as devised by the Royal Institute of Chartered Surveyors, and that Mr Hindle is a Chartered Building Surveyor. It is not necessary to be a Fire Engineer to complete this report, merely that the signatory is able to self-certify that they have expertise in the assessment of the fire risk presented by external wall materials. The cost of the report was in the region of £5000. We are informed that the cost of getting a report carried out by a Chartered Engineer with the Institute of Fire Engineers would have been in the region of £30,000. Whilst it would appear from the email correspondence from Mr Bonner at Linley and Simpson dated 17 August 2022, that some lenders are erroneously deeming reports from a Chartered Surveyor to be invalid, that is a decision on the part of the lender, not a reflection of an unreasonable decision by the Respondent. They could equally well have been criticised for incurring the additional costs of having a report from a Fire Engineer at 6 times the cost of a Chartered Surveyor. In our view they have instructed a suitably qualified individual to conduct a piece of work and have paid them at a cost commensurate with their qualifications.

48. The Respondent argues that the costs of inspecting the property potentially fall under paragraph 5.4 of Schedule 4 of the Lease. We also find them to be recoverable under paragraph 7.14 as reasonable and proper expenses incurred by the Management Company and/or the Landlord in and about the maintenance and proper and convenient running of the Estate. We find this sum to be reasonable and recoverable through the service charge.

### **Issue 4 - Pre-paid Electricity Meter**

49. The Applicants claim that the sum of £14,099.41 was not reasonably incurred in respect of the installation of pre-payment electricity meter. It is common ground between the parties that whilst the Leaseholders themselves get their electricity in the traditional individually metered manner, the previous arrangement at Candle House was that there were also 2 other meters – one of which provided the supply to AML Car Park 1 (run by Mr Overstreet), and the other which provided the supply to the GWEML Estate Office, Car Park 3 and the shared access road.

50. The Respondent's position is that the previous arrangement required the Respondent to make upfront payments for electricity consumed by third parties in excess of £30,000 per year. They argue that this presented a financial risk to both the Management Company and the leaseholders were there to be default on these payments.

51. The Tribunal heard oral evidence from Mr Khan that there had been an issue with regular outages and spikes over a 5-6 week period at Candle House which had triggered the change in the arrangements. It is common ground between the parties that outages were a real problem although there was disagreement about the cause. The Tribunal heard from Mr Khan that the spikes were a safety concern due to overloading of the supply cable and an external electrical engineer was instructed and reported that the spikes were from AML. He stated that various solutions were considered including putting a separate meter for AML into the car park, but that this would have cost £100,000 due to the need to dig up the road. He stated that in the end the decision was taken to follow the expert advice and to make the building safe due to the regularity of the issue. Mr Overstreet, on the other hand, asserted that the spikes and outages had nothing to do with AML but followed testing of the fire safety systems at Candle House, and that the engineer had, in error, reset the automatic testing of the wet riser system to happen once an hour rather than once a week. This overloaded the system and caused the outages.

52. The Tribunal was referred to correspondence at page 228 of the bundle from Watsons dated 17 February 2017 requesting a payment of £1000 from Assured Site Services (AML) to monitor the supply as part of efforts to resolve the issue. We were also referred to a report on Sub-metering from Service Design Associates dated 7 February 2020 [supplementary bundle]. This report states at Section 7.0 'Recommendations' – *'Based on the Client's requirements the most practical solution would be to select the MeterPay prepaid sub-metering system on both the Management suite and Arches car park C-G supply. This system will enable all 3<sup>rd</sup> party Customers to stay in control of their energy usage and payments without requiring access to the meter. It also means MeterPay will manage the payment process on the Client's behalf making sure funds are transferred appropriately between each party.'*

53. Mr Overstreet informed the Tribunal that in his view the replacement of the previous metering arrangement was a detriment to the leaseholders, the cost of electricity to AML increased, and as a consequence the cost of car parking for leaseholders such as Mr Hewlett in the AML car park had also increased. He stated that AML was paying monthly so there was no risk of default. The Scott Schedule also includes under Applicants' comments that AML now has its power cut sporadically when GWEML forgets to keep credit on its assigned meter and that the installation of these meters has created risk to Leeds train Station.

54. We firstly considered whether these charges were recoverable under the terms of the Lease. We are satisfied that the charge is potentially recoverable under paragraphs 7.11, 7.13 and 7.14 of Schedule 4.

55. We next considered whether we were persuaded that the charges associated with the installation of pre-payment meters were not reasonable or reasonably incurred. We find that it was reasonable for the Respondent to take the decision which they took in respect of installation of the pre-payment meters. We accept the evidence of Mr Khan that there were concerns around spikes in electricity usage which were compromising safety. We also accept the submissions of the Respondent that there was a risk associated with non-payment by third parties which would have had to be borne ultimately by the leaseholders. The fact that this risk had not at that point in time materialised through actual non-payment does not mean that it did not exist as a risk which it was reasonable to mitigate against. The detriment to which Mr Overstreet refers appears in large part to be a detriment to AML, which is not a leaseholder. We do not find this argument to be persuasive and we consider that the installation of pre-payment meters, whilst not necessarily the only possible solution to the problems faced by Candle House, was a reasonable decision to have taken, in line with the independent professional report, and that the costs associated with it were reasonable and reasonably incurred and are therefore recoverable through the service charge.

#### **Issue 5 - Management Charges**

56. The Applicant queries charges totalling £47,785.49, the multiple bases of the complaint being as follows:

- i. the contract with director Neil Walker for reading the energy meters is a long-term qualifying agreement.
- ii. there are conflicts of interest leading to leaseholders paying more than is necessary for services.
- iii. there is an absence of supporting invoices.
- iv. Leaseholders are already paying for CCTV through GWEML

57. The Respondent states that the sums paid to director Mr Walker for meter reading is expenditure incurred pursuant to Schedule 4 Part B paragraph 5.14 being costs relating to the supply of water and heating to the building and Part D, paragraph 7.11 being the provision of a service which in the Respondent's opinion is reasonable to provide. The Respondent states in its response within the Scott Schedule that Focus FM and Vital Energy were previously engaged on an ad-hoc basis to read the water and heat energy meters monthly and provide these meter readings to the managing agents. The managing agents were then responsible for analysing the data and preparing bills. However, the Respondents claim that errors consistently occurred, and this resulted in inaccurate bills being produced and arrears accruing. The Respondent states that Mr Neil Walker put forward a proposal to take on this work and this proposal was approved unanimously by the RMC in 2016.

58. The Respondent's position is that Mr Walker is engaged by the Respondent to read the 159 water meters and 159 heat energy meters on a monthly basis on 1st of the month, analyse the data, process communal water and gas bills and prepare yearly heat/water estimates for all 159 apartments including year-end reconciliations. They state that this work has resulted in a historic water bill totalling £118,000 being written off in September 2020 and £42,000 being credited back to leaseholders. They also state that there has been no increase in the charge for the provision of this service

within the last four years, it is still currently below the amount leaseholders were charged back in 2016.

59. Mr Overstreet referred the Tribunal to the case of *Corvan (Properties) Ltd v Abdel-Mahmoud [2018] EWCA Civ 1102*. He states that the arrangement with Mr Walker is a Long-Term Qualifying Agreement and therefore should have been subject to consultation.

60. The fact that the arrangement with Mr Walker has continued for more than a year does not of itself make it a Long-term Qualifying Agreement. We have not been provided with any form of agreement for this work by either party. This leads us to conclude that a formal agreement does not exist, but instead that there is an informal arrangement which has persisted for a prolonged duration. We are not persuaded on the balance of probabilities that there is an agreement here with a term which exceeds 12 months, and in the absence of evidence that there is a contract period of more than a year we are unable to reach the conclusion that there is a long-term agreement and therefore we do not consider Mr Overstreet's arguments about the need for consultation any further.

61. Mr Overstreet accepted when questioned that the meter reading service was being provided. He argued that there was no tendering process when Mr Walker was appointed and that payments to Mr Walker were now more expensive than payments to the two previous companies combined. He referred the Tribunal to page 406 and 407 being the invoices from Focus FM dated 5 April 2016 for £594 for professional services in respect of Candle House Electricity Reconciliation and Vital Energy dated 5 February 2016 for £3365.82 the narrative for which states '*Carry out fixed network meter reading service including monthly reporting to 320 meters for the period 1 February 2016 to 31 January 2017*'. The Respondent's comments in the Scott Schedule confirm that there are 159 apartments and therefore 159 water meters and 159 heat energy meters. We take the 320 in the Vital Energy invoice to cover all of these plus the other 2 meters which were previously providing supply to external third parties prior to the installation of pre-payment meters.

62. We share the Applicant's concerns that there are no invoices for this work carried out by Mr Walker, and also that there therefore appears to be no scrutiny. The charges are levied by Mr Walker monthly although Mr Overstreet contends that the readings are only done twice a year. We note that it is not disputed that this is a service which is taking place at least to some extent, or that it is a service which leaseholders previously paid external contractors to do. We know it is taking place as reconciliation payments have arisen as a consequence of the work done by Mr Walker. We accept that the cost of providing this service is recoverable through the service charge under the terms of the Lease. There is nothing to preclude the service being carried out by a Director, if the service is conducted competently and for a reasonable cost. Mr Overstreet argues that the cost to Leaseholders previously was far less previously. Mr McDonald submitted on behalf of the Respondent that the comparative costings were not comparing like with like. Mr Khan states in his witness statement that the readings from Focus FM and Vital Energi were then sent to the previous managing agents GVA who were responsible for analysing data and calculating the gas and water bills. We have no information from Mr Walker as to

precisely what he was doing or for how long which justified what appears on the face of it to be an increase from approximately £4000 per year to over £9500 in 2017. In our view a reasonable sum for this exercise would be in the region of £500 per month or £6000 per year in 2017 and therefore we have allowed the sum up to this amount in 2017 and allowed an increase over time.

63. We note that the Applicants also cite under this heading a number of items of expenditure for which they state that there are no invoices. Many of these items are small day to day petty cash type expenses for which it is not, in our view, unusual for there to be an absence of invoices, although clearly full documentation would be best practice. The Applicant's complaint appears in part to be that the standard of documentation is not all that it should have been and is below a reasonable standard. Again, the requirement for a Management Company is not that they meet a standard of perfection, and absence of an invoice may be one element which the tribunal takes into account when considering whether it is persuaded that a charge is reasonable, but it is not of itself determinative. Some of the items listed by the Applicants do in fact have invoices, such as the storage box item for £15 and disbursements of £528 paid to Watsons and we find these to be allowable in full.

64. The Tribunal heard oral evidence from Mr Khan that nobody specifically checks whether the amount of time spent by directors on particular tasks are reasonable. Directors send an email logging their hours to Mr Edward Ralph at the management company, and Mr Khan stated that he would have 'a ballpark idea' of the number of hours and he has not been aware of any issues. He stated 'there will be a paper trail'

65. We note that the Respondents argue that Professional and Administration fees for Mr Walker of some £5000 are recoverable, being described by the Respondents in the Scott Schedule as '4-8 hours per week for around 2 years'. This represents an hourly rate of around £10 to £15 per hour. We consider this to be a reasonable hourly rate for this administration work in respect of a legal dispute carried out by a non-legally qualified person and we allow it accordingly.

66. We accept the Respondent's submissions contained within the Scott Schedule on all of the points contained within this tab of the Scott Schedule as we are not presented with any contrary evidence by the Applicant that the services were not provided, or items not purchased or that the costs themselves were not reasonable.

67. The exception to this is that we have disallowed the sum of £49.50 which the Respondent states was for a lockable notice board purchased for the entrance which the Management Company retains but has not installed. We note that this was purchased in 2020 and we conclude that the fact it has not been installed in the subsequent 3 years suggests that it was unnecessary and therefore not reasonably incurred. We have also disallowed the sum of £80 for the installation of digital signage and lift signage. This appears to be work carried out by Mr Walker for 2 hours [supplementary documents item 32]. In an email to Mr Ralph dated 18 September 2018 he states '*Please could you transfer me a sundries reimbursement of £80. This can be transferred to my usual account. This is for the 2 hours I spent on site yesterday installing digital signage, lift signage and safety barriers for the*

*lift lock off and lobby works.* There is no corresponding email chain, or ‘paper trail’ as Mr Khan suggests to suggest that he was requested to do this work, following an identified need, or that there was any scrutiny of the work that was done, the time that it took, or the quality of the work delivered. Mr Walker did not provide to the Tribunal any statement to give additional information as to the way in which he was engaged to carry out such work. Nor, in our view, is £40 per hour for what appears to be ‘odd jobs’ a reasonable hourly rate. We note that Mr Overstreet makes a number of references to concerns about conflict of interest, and although we do not agree with his assessment in all cases, we are nevertheless concerned that an absence of oversight means it is possible that sums are being charged to the service charge account which are not reasonably incurred. We are persuaded that this is the case in respect of this item and consequently disallow it.

68. We similarly considered the sum of £1211.40 paid to Mr Nixon – this is itemised in an email to Mr Ralph dated 28 March 2019 which lists expenses for Emails, time spent on court claims and other matters at £75/hour and annual Acrobat Pro subscription for digital redaction of emails for SAR (Subject Access Requests) emails. He states that a number of these items can be ‘funded by the Professional/Legal Fees if that’s possible’ and that *‘All disbursements including the hourly rate for dealing with the paperwork for the claim against AML + processing subject access requests (SARs) on behalf of the RMC have been authorised by all directors’*

69. Mr Overstreet gave evidence that this item related to a claim against AML to which the management Company failed to attend. He also gave evidence that some of the Subject Access Requests which were made were not responded to.

70. We are concerned again that there is an absence of oversight here as to the time being spent, and we are not persuaded that unanimity amongst the directors as to the hourly rate they consider appropriate to pay themselves for sundry work renders that rate reasonable. £75/per hour is, in our view, an excessively high hourly rate for a director to apparently be taking preparatory steps in litigation, particularly against a backdrop of non-itemised legal costs with a catch-all heading of ‘nuisance leaseholders’ and also within the context of extremely high solicitors’ costs. This is not a situation where directors were spending their time on legal matters instead of instructing solicitors in order to save costs for leaseholders. Mr Nixon did not attend the hearing or provide a statement to the Tribunal to explain how his day-to-day involvement with such activities was scrutinised, or what qualifications and experience he had to charge £75/ hour for such work in connection with litigation when lawyers had already been instructed, nor was any information provided as to why this work was necessary and therefore the charge reasonably incurred. It is not suggested by the Respondents that he is legally qualified or has specific expertise in Data Subject Access Requests which would justify such a high fee. We accept the evidence of Mr Overstreet on this point, and we find that the charges are unreasonable and relate to services either unnecessarily rendered, duplicative or delivered at a substandard level. We disallow the entirety of this item.



71. For the same reasons as set out above, we disallow the sum of £225 as relating to emails and SARS charged out at £75/hour which we find to be excessive and unreasonable.

72. We have also disallowed the sum of £329 in respect of a CCTV camera paid to Mr Walker and £100 for cloud CCTV services. The Tribunal considers the issue of CCTV cameras more fully elsewhere but we find the evidence of Mr Overstreet (set out fully below) to be persuasive that there was over-provision of CCTV and duplication of services and we therefore conclude that this is an unnecessary and unreasonable expense given the level of CCTV in place at the Property and therefore in our view this is not reasonably incurred and not recoverable under the service charge.

### **Issue 6 – Reasonableness**

73. The Applicants list a large number of items totalling £57,012.60 under this heading. The issues which are raised in respect of these items include:

- i. whether contracts for e.g. cleaning are long term qualifying agreements
- ii. whether there are conflicts of interest associated with contracts and/or the individuals are suitably qualified
- iii. whether other items were reasonably incurred including
  - a. CCTV
  - b. Paxton Fob System
  - c. Supply data to Yorkshire water – Mr Walker
  - d. Lift Contract

74. The Tribunal heard oral evidence from Mr Khan that the cleaning contract was put out to tender. It was awarded to Red Apple, which is a company run by one of the Leaseholders. He states that the arrangement makes sense as it is an excellent service with no additional call out charges. He stated that ‘it works and it is not astronomical’.

75. The Applicants argue that a wide range of agreements entered into by the Respondent are long-term qualifying agreements for which no consultation has taken place. They cite

- i. Watsons PM Agreement – contract provided at page 128 supplementary bundle.
- ii. Wheatley FM – no written contract
- iii. Red Apple
- iv. Mr Walker meter reading (dealt with above)

76. Taking these in turn – the Watsons contract dated 12 May 2016 is stated to commence on 1 April 2016. Clause 5.1 specifies that the agreement is for an initial period of 364 days from the Commencement Date and shall continue until determined by either party serving 1 months’ notice. This wording is similar to that in the Corvan case to which Mr Overstreet refers the Tribunal. Whilst the contract period is expressly stated to be for a period of 364 days the clause goes on to state that the same contract period is ‘to continue until determined’. The word ‘shall’ in clause 5 effectively introduces a mandatory requirement that the contract will continue beyond the initial 364 days without specifying for how long.

77. However, the critical distinction in our view between this agreement and that in the Corvan case is that at its shortest the Corvan agreement was for a term of 1 year

and a day – and thus an agreement for a term of more than 12 months. In this case at its shortest the agreement is for a term of 364 days plus 1 day – i.e. this is not an agreement for a term which must exceed 12 months even if the reality is that in practice it has done so, or indeed that the intention may have been that the managing agent was to do so. We reject Mr Overstreet's argument in respect of this long-term qualifying agreement.

78. We reject his argument in respect of the other contracts with Red Apple and Wheatley FM which he suggests are long-term qualifying agreements as there is no written agreement provided. In the absence of any evidence to support his claim that the minimum term of these contracts exceeds 12 months we are not persuaded on the balance of probabilities that they are long term qualifying agreements. They do not become so simply by virtue of having subsisted for more than 12 months.

79. Mr Overstreet also challenged the cleaning invoices to Red Apple Cleaning stating that they were to a connected party thereby creating a conflict of interest in conflict with the RICS code of practice. He does not dispute that the cleaning costs are of themselves potentially recoverable under paragraph 5.3 of part B of Schedule 4 of the Lease and nor does he dispute that the cleaning which was the subject matter of the contract took place. He queries why there are additional charges in relation to dog faeces and vomit over and above the standard contract. In our view items of this nature would need cleaning as a matter of urgency and at a level of rigor in excess of a standard contract clean. We do not find these additional charges to be unreasonable, and note that the veracity of them is not disputed. Mr Overstreet does not provide any alternative quotes for the work. We are mindful that Mr Overstreet states that it is not possible to provide an alternative quote as the terms of the contract are not known, however the nature and extent of the common areas are known, and it would be possible to obtain a quote on a range of frequencies if that is uncertain. Mr Overstreet also argues that the cost is not reasonable because it is more expensive than the previous contractor. We reject this argument. It is not incumbent on the Management Company to contract with the lowest cost provider. Indeed, it is possible that a Management Company could change from a low cost provider to a higher cost one because the level of service provided at the lower fee was inadequate. We draw no conclusion of unreasonableness purely on the basis of an increase in cost. We accept the evidence of Mr Khan that the service level being provided is satisfactory and that the arrangement is financially reasonable. The burden of proof to show that these charges are unreasonable or not reasonably incurred is on the Applicants and we are not persuaded on the balance of probabilities that these charges are unrecoverable and we allow them in full.

### **Conflicts of Interest/suitability of contractors.**

80. Mr Overstreet expressed significant concern that contracts had been awarded to individuals and companies connected with leaseholders. He also expressed concern that Mr Lightowler was not appropriately qualified to conduct the work he was engaged to do. At no point did Mr Overstreet suggest that the work invoiced by these companies/individuals was not being carried out, was not to a reasonable standard or that he had alternative quotations which suggested that the sums being charged to the service charge account were not reasonable. We have not gone through these items line by line in our reasoning, as we do not find there to be anything further to say on these items other than that we allow them in full. Whilst a close connection to the recipient of a contract is cause for careful scrutiny of the service being provided, there

does not appear to be any concern that the leaseholders are not getting the service that is being paid for here, nor that the cost of these services is unreasonably high.

## **CCTV**

81. Mr Overstreet gave evidence that the Watsons report had recommended 9 CCTV cameras. He stated that the Alarm Guys' contract was to install 9 new cameras and replace one other pre-existing one but subsequently more CCTV cameras have been installed to the point where the building now has 28 CCTV cameras compared to other buildings which have only 3. He stated that previously CCTV monitoring was done through GWEML and was virtually 24/7 with the exception of short breaks or dealing with e.g. package deliveries and that a charge is still paid by leaseholders for CCTV monitoring by GWEML security guards, but they are effectively being paid to look at blank screens as the feed to those cameras has been turned off following the installation of the new system. Mr Overstreet stated that the new system is looked at 3-4 times per day by Mr Walker but there is no longer live monitoring. He stated that the charge for this monitoring is £52.76 per hour paid to Mr Walker.

82. Mr Overstreet stated that he did not disagree with the Watsons recommendation for 10 cameras – as whilst even this in his view is a large number for a small area, he accepts the recommendation of a professional management company however he states that there are now 28 cameras installed and yet despite previously monitoring inside and out, there is no longer continual interior monitoring.

83. Mr McDonald stated that the Respondent's position was that the service previously provided by GWEML was not satisfactory and covered some areas and not others and broke down. He stated that better CCTV coverage was necessary due to anti-social behaviour. He stated that whilst different views could be taken on the level of CCTV the decision taken by the Management Company was not unreasonable.

84. The Tribunal observed on its inspection of the Property and Estate that there were blank screens within the monitoring facility within the GWEML site office which we were informed would previously have displayed Candle House CCTV.

85. The Candle House Service Charge Accounts includes an Estate Charge to GWEML. This includes a charge for Security provision [page 322] of which Candle House pays its proportionate share of 29.85990%. It is not in dispute that this includes provision of a security guard service which patrols the estate. It is not in dispute that it historically included CCTV monitoring from the Estate Office on a virtually 24 hour basis. It is also not in dispute that the charge to the Leaseholders for this service through GWEML has continued irrespective of the decision on additional CCTV taken by the Respondent.

86. We found the evidence of Mr Overstreet to be persuasive on this point. We have given careful consideration to Mr McDonald's submissions but of course he is not in a position to give evidence on these points, and we note that Mr Khan does not deal with concerns about anti-social behaviour and the need for additional CCTV in his witness statement despite him having been involved with the building since 2016. We accept that the service being provided prior to the installation of the additional cameras was of a reasonable level and was subject to a more comprehensive level of scrutiny and live monitoring than the larger array of cameras now installed. We accept his evidence that the Leaseholders have been charged for additional equipment which was unnecessary and have also been charge additional sums for a lower level of service,

and continue to be charged for the previous level of monitoring despite the cameras no longer transmitting images to the GWEML estate office. We have disallowed the cost of installation of additional cameras and disallowed the cost of the monitoring of the additional cameras which are in our view unnecessary.

### **Paxton Fob system**

87. The Applicants dispute the charge of £7419.79 for a Paxton Fob system plus all the follow-up costs resulting from the change in the system. Mr Overstreet gave evidence that the previous fob system was functional, it was paid for through the existing GWEML service charge and it was easy and cheap to replace a fob which would be obtained from the GWEML estate office. The new system he stated required a more expensive replacement fob to be ordered through the Alarm Guys.

88. The comments from the Respondent in the Scott Schedule argue that the previous system was old and outdated and created a security risk.

89. In our view we were not persuaded that any difficulties with the previous system through GWEML were such as to justify wholesale replacement of the system. In particular we cannot see how this can be justified when the previous charge for fobs etc within security remains payable by leaseholders. We note that there does not appear to have been any attempt to reduce the level of charge being paid by leaseholders for the previous system rendered redundant by the replacement. Instead leaseholders appear to be paying twice. We therefore do not think that this charge is reasonable and therefore do not find it to be recoverable through the service charge.

### **Supply Data to Yorkshire Water**

90. This appears to be an additional £1600 charge to Mr Walker in addition to the sum of £10,571.52 which he had already invoiced in respect of meter readings and reconciliations. It is billed at £50/hour for 32 hours. We have already made a finding in respect of what we consider to be a reasonable sum for the meter reading and reconciliation services which Mr Walker was providing in respect of the 159 water meters and 159 heat energy meters and therefore we disallow this sum in its entirety as being unnecessary and unreasonable.

### **Lift Maintenance Contract**

91. It is common ground between the parties that one of the two lifts was out of service for a protracted period of time. The Applicants argue that there should have been a reduction in the cost of the maintenance contract negotiated on behalf of Leaseholders as a consequence of the reduction in service. We have no information whether such a negotiation was attempted and was unsuccessful. There is no obligation on the Respondent to take such steps, and it is not disputed that the sums charged to the service charge account were the sums invoiced by the Lift company and that they are recoverable under the terms of the Lease. This is not a situation where a rebate has been negotiated and not passed on to the leaseholders. It would be wrong and inappropriate for us to expect with imperfect hindsight an outcome which may be apparently desirable but may or may not have been available. Whilst we can fully understand the frustrations of the Applicants that one of the two lifts was out of action for a long time (and indeed was out of action when the Tribunal inspected) we are not persuaded that these charges are unreasonable or not reasonably incurred.

### **Other**

92. There are a large number of other complaints raised by the Applicants which we do not find to be substantiated by the evidence placed before us. However, exceptions to this are as follows:

93. We considered the charge of £380 for the 'virtual AGM' preparation. The Tribunal heard evidence from Mr Overstreet and Mr Hewlett that this AGM never took place. Leaseholders were told that it would not be an in-person AGM. They received an email that a virtual AGM was taking place but no Teams invitation or link to attend remotely. Mr Overstreet stated that he does not dispute the charges in relation to Mail Chimp as they received a vote ballot form through Mail Chimp but he does dispute the TeamViewer charges as this should have been for virtual attendance at the meeting. He stated that the AGM has been non-quorate for the last 3 years with a participation rate of 12%. Mr McDonald argues that the AGM was scheduled, preparation was needed and therefore the time charged by Mr Walker was time properly spent in discharge of his duties. We disagree that 7.5 hours is a reasonable length of time spent preparing for an AGM to which no invitations to attend were sent. We disallow this sum in its entirety.

94. We considered the charge of £300 for additional security. We note that security is already provided and being paid for by leaseholders through the GWEML estate charge. We were persuaded by the Applicants that it was unreasonable to duplicate this charge in this way and we therefore disallow it.

#### **Issue 7 - Legal Costs**

95. These costs predominantly relate to legal advice obtained by the Respondent relating to a potential claim against AML in relation to payment for costs arising out of the testing/maintenance of electricity submeters with the exception of a couple of items which are sums payable to the directors themselves. It is not disputed by the Applicants that legal fees are potentially recoverable under the terms of the Lease, the aspect which they dispute is that the Respondent did not ultimately attend court or present any evidence and the case was dismissed and therefore they dispute the reasonableness in incurring these costs. In our view it is again inappropriate for us to attempt to step behind a separate piece of litigation about which we know very little and reach a view of merits, or appropriateness of pursuing a claim. However, we do note that there is a running theme in this matter of significant legal costs being incurred and charged back through the service charge account. This could be due to either the conduct of Leaseholders, or the readiness of the Management Company to use litigation as a tool with which to settle disputes, in the knowledge that ultimately the leaseholders will fund this approach. We would hope that neither of these possibilities continues to persist as the sums incurred on legal fees in relation to this Property are extraordinarily high. However, the question for us is to consider whether, on the balance of probabilities, we are persuaded that they are not reasonable or have not been reasonably incurred and we are not persuaded by the Applicants that this is the case, regrettable as the sums incurred may be. Regret is not the same as unreasonable and we therefore find ourselves with no alternative but to allow them in so far as they are fees paid to external third parties. We do not accept that the sum of £500 paid to Mr Walker for CCTV evidence retrieval is a sum reasonably incurred. This seems to us to be an inflated cost which is not reasonably payable.

#### **Issue 8 – GWEML**

96. It is not disputed that the Respondent has an obligation to pay the Estate Charge as demanded by GWEML under the Management Service Deed. This is set out at Part C (paragraph 6 ) of Schedule 4 to the Lease.

97. The Applicants' concerns are twofold – firstly that the amount paid to GWEML is not scrutinised or approved by the Management Company before paying them – therefore Leaseholders could be paying for items which are unreasonable but because they are second hand transactions, they cannot see the detail of the costs being incurred. The second element of their complaint is that the charges have remained static despite the services which Candle House have received being reduced – i.e. with the removal of CCTV monitoring, removal of BMS fob programming and other elements raised by Applicants including removal of parcel holding, key holding, lighting and the road being in a state of disrepair. They also raise concern about £373,208 spent by GWEML on legal fees.

98. We share the concern of the Applicants about the lack of scrutiny. We note that Mr Khan confirmed that the sums invoiced by GWEML are not scrutinised by the Property Management Company. It appears that they are simply being passed on to the Leaseholders without being subject to careful consideration as to the validity of the charges contained therein. However, that absence of scrutiny is not of itself evidence that the charges are unreasonable. The burden is on the Applicant and we are not persuaded that the charges themselves are unreasonable or not reasonably incurred. We note the Applicants concerns that the charges have remained constant despite a diminution in service level being provided. We have reflected this already though having disallowed elements of the service charge which in our view duplicated items already being paid for through the GWEML Estate Charge. Therefore, we find the GWEML estate Charge to be allowable in full. Whilst the notion that it would be the subject of greater challenge and scrutiny in future appears attractive it is of course possible that to introduce a higher level of scrutiny would itself incur further costs to Leaseholders which they may not wish for.

#### **Issues 9, 10 and 11 – other miscellaneous items.**

100. Many of these have been dealt with under the headings above – e.g. the invoices from Mr Lightowler. Several other items raise issues which are outside the scope of our jurisdiction, such as whether or not leaseholders are running businesses from their apartments, and whether or not the Respondent does or does not choose to pursue such matters. These are not matters for us and we do not detain ourselves further with items outside our jurisdictional remit. We accept the evidence of Mr Khan that Been Pestered provided services within the building to a reasonable standard, that the costs were reasonable and reasonably incurred. We allow the items under Tab 9 in full, with the exception of the fob costs which are discussed elsewhere in this decision.

101. We note the distress and concern expressed by the Applicants in relation to them having been blocked from access to the roof terrace for a period of time. The request for service charge not to be payable by affected leaseholders and/or damages in the sum of £100 per day for being blocked from entering the building and £50 per day for being blocked from entering the garden appears to be a claim for damages arising out of what the Applicants suggest is a breach of covenant. This goes beyond the scope of the application before us which is to determine the reasonableness and payability of the service charge. Again, we can take this aspect of the Applicants' claim no further within these proceedings. We allow the items under Tab 10 in full

being not persuaded by the Applicants that the items to which they refer were unreasonable or not reasonably incurred. We note the Respondent's references to specific invoices in their comments in the Scott Schedule and we accept this evidence.

102. Tab 11 is entitled 'new items' within that we have disallowed the £350 of live CCTV monitoring by Mr Walker for reasons set out previously – both that a charge is already being paid for security and CCTV monitoring through GWEML, and also that 7 hours of monitoring at £50 per hour is an excessive rate. We also accept the oral evidence given by Mr Overstreet that Mr Walker does not monitor the new CCTV system constantly. This was not disputed by the Respondents – indeed given the number of other commitments Mr Walker seems to have within the Property it is perhaps unsurprising that he is unable to do so.

103. We have also disallowed a further £477.60 paid to Mr Walker in relation to Lobby Digital Screen for the reasons set out earlier in this decision. We note that the £3600 which is described as relating to 2 hours directors phone call with Freeth's is in fact 72 hours of work at £50/hour for Mr Nixon with 11 hours of mediation also being attended by Mr Walker at £50/hour. This appears to be in relation to the legal proceedings at issue 2. Again, we have no information from the Directors concerned what this charge was for, what work was done by them that required their involvement, why both of them needed to be present at the mediation, why this particular piece of work, if indeed necessary, justified a charge of £50 per hour in addition to the legal representation which was already being paid for. We are not persuaded on the balance of probabilities in the context of the extent of other charges around this litigation that these costs were reasonably incurred and therefore we disallow them.

104. We have disallowed the remaining items for which no invoices have been provided, not because an absence of an invoice is of itself indicative that there has been an absence of reasonableness, but because in these cases the payments are unidentified and unscrutinised payments to the directors. There is no evidence that claims from directors have been queried, challenged or scrutinised to any degree. Not even a charge of £350 for monitoring CCTV on New Year's Eve whilst the city was in lockdown. We are surprised that given that it was leaseholders' money being spent that these claims did not merit a greater degree of scrutiny and we are not persuaded that they are reasonably incurred. The impression given by these invoices from 2021 is of directors who had perhaps lost sight of the fact that they were spending other people's money and the need for sums being incurred under the service charge to be reasonable, reasonably incurred and subject to scrutiny.

## **Costs**

105. The Applicants made a section 20C application that the costs of this referral shall not be added to the service charge account. The relevant law on this issue is to be found in section 20C of the Landlord and Tenant Act 1985, subsection (1) of which provides:

*A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court or leasehold valuation tribunal ... are not to be regarded as relevant costs to be taken into account in determining the amount of any service*

*charge payable by the tenant or any other person or persons specified in the application.*

and subsection (3) which gives the Tribunal power to:  
*make such order on the application as it considers just and equitable in the circumstances.*

106 Whilst we note that the Applicants have not been successful in all aspects of their claim, nevertheless they have been successful in part, in particular with respect of the upgrading of the lobby, and also with respect to their assertions about the at times cavalier way in which the Directors appear to have been charging their own time out at high hourly rates without significant scrutiny, and in respect of funding directors' personal litigation costs and potentially duplicative costs on top of already extremely high legal fees. We note that the Applicants had raised a query about an absence of consultation in respect of the lobby upgrade, which whilst not ultimately of relevance to our decision, was nevertheless only conceded at the hearing when it must have been apparent long before then that the consultation documentation which the Applicants requested was lacking, particularly given that they have been represented throughout. However, similarly there are large swathes of the service charge which were queried unsuccessfully, including the significant GWEML charges.

107. The Upper Tribunal gave guidance as to how a Tribunal should assess success or failure in *Church Commissioners v Derdabi* [2011] UKUT 380(LC). At paragraph [19] the judgment says:

*"Where the tenant is successful in whole or in part in respect of all or some of the matters in issue, it will usually follow that an order should be made under 20C preventing the landlord from recovering his costs of dealing with the matters on which the tenant has succeeded because it will follow that the landlord's claim will have been found to have been unreasonable to that extent, and it would be unjust if the tenant had to pay those costs via the service charge. By parity of reasoning, the landlord should not be prevented from recovering via the service charge his costs of dealing with the unsuccessful parts of the tenant's claim as that would usually (but not always) be unjust and an unwarranted infringement of his contractual rights."*

108. It is clear, however, that the allocation between the parties where success is mixed does not require detailed consideration of bills for legal services: Paragraphs [22] and [23]:

*"Where the landlord is to be prevented from recovering part only of his costs via the service charge, it should be expressed as a percentage of the costs recoverable. ... In determining the percentage, it is not intended that the tribunal conduct some sort of "mini taxation" exercise. Rather, a robust, broad-brush approach should be adopted based upon the material before the tribunal and taking into account all relevant factors and circumstances ..."*

109. Given the Tribunal's findings we are of the view that it is indeed just and equitable to make such an order – we consider that an order extinguishing 75% of the Respondent's litigation costs relating to these proceedings before the FTT is appropriate. We are mindful that this does not represent the financial proportion of the claim which has been found to be unreasonable, but in our view in a complex



multi-faceted claim such as this, it is not the sums claimed themselves which drive the legal costs, but the number and range of issues, and the conduct of the litigation and it is this which we have attempted broadly to reflect in this decision. We are conscious that the Tenants were not legally represented and therefore it is perhaps unsurprising that they pursued a number of points which they might otherwise have been advised were less meritorious, but nevertheless they were entitled to bring the claim, had correctly identified a number of areas of concern, including conduct of Directors in connection with litigation. Had those concerns been addressed in a less combative way, it may be that many of the other issues would have fallen away. Indeed we note that the Applicants have been at least partially successful under the majority of the Issue subheadings and for this reason we conclude that an order extinguishing 75% of the Respondent's litigation costs relating to these proceedings before the FTT is appropriate.

107 We next considered the nature of the jurisdiction conferred by paragraph 5A.

108. Paragraph 5A was added to the 2002 Act by section 131 of the Housing and Planning Act 2016. The note on that section published with the Act includes the following, at paragraph 359:

“Prior to the passing of this Act, the courts and tribunals had power only to restrict a landlord from recovering their legal costs through the service charge. This section strengthens the powers of the courts and tribunals so that on the application of a leaseholder they may restrict recovery of a landlord's costs through the service charge or as an administration charge.”

109. Notes on legislation published with Acts by the Government Department responsible for the legislation can assist tribunals as to the purpose of a provision, which in turn can be an aid to its construction.

110. The power referred to in the first sentence of the note is that contained in the Landlord and Tenant Act 1985, section 20C. As the note indicates, the purpose of paragraph 5A is to replicate, for administration charges, the existing law as it relates to service charges in section 20C. Our view is that, as a result, the considerations that apply to the making of an order under section 20C apply *mutatis mutandis* to making an order under paragraph 5A.

111. Paragraph 5A(2) states that “the court or tribunal may make whatever order on the application it considers to be just and equitable”, and a similar formula appears in section 20C(3) (and see *Tenants of Langford Court v Doren Ltd* (LRX/37/2000). The orders are discretionary. They constitute an interference with the landlord's contractual rights, and should not be made as a matter of course, so the success or failure of a party is not wholly determinative. Comparative success is, however, a significant matter in weighing up what is just and equitable in the circumstances, and it would be unusual to make an order in favour of an unsuccessful tenant (see generally *Langford Court; Schilling v Canary Riverside Development PTE Limited* LRX/26/2005).

112. Similarly, having concluded that the Applicants have been successful in part but that there is not an overwhelming victory for either party, we make an order under Commonhold and Leasehold Reform Act 2002, schedule 11, paragraph 5A limiting the Applicants' liability to pay an administration charge in respect of litigation costs incurred in relation to this decision to 25%.

## **Appeals**

1. A person wishing to appeal this decision to the Upper Chamber must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the person making the application is seeking

## Appendices

The Tribunal sets out below the items in the Scott Schedule and the extent to which they are allowed or disallowed for the reasons set out above. The narrative under the heading 'Disputed Item' is lifted directly from the Scott Schedule and is retained for ease of reference to enable each item to be identified. The Tribunal does not adopt or endorse any pejorative elements to this wording which does not form part of the decision itself.

### Appendix A – Issue 1

Item	Document no. (Dx)	Date or Start Date	Disputed Amount	Disputed Item	Tribunal decision (sum allowed)
<b>SECTION 1. - Lobby Redesign Project</b>					
15	D20	27/11/2017	600.00	Invoice to design the new lobby Redesign Project that was not consulted upon. £600.00.	0
35	D32	15/11/2018	1,800.00	Invoice for the design of lighting for the new lobby that was not consulted upon. £1800.00	0
96	D40	01/11/2019	350.00	191108 Inv No 0050 - Attended. £350 paid to J.A.M. Structural Design for lighting design in the lobby.	0
98	D42	14/11/2019	22,725.36	191114 Inv No. 0000002478 - Pro F. £22,725.36 paid to Tyson Lighting Ltd. For lighting in the lobby.	0
140	D79	12/08/2020	13,458.00	Attended & supplied & fitted. Vistafolia was paid £13458.00 for the "green wall" part of the new lobby. It is made of plastic.	0
50	D34	04/03/2019	1,599.60	9 Inv-i-1903041080 windows single licence. £1599.60 paid to Digital Media Systems for a new electronic notice board.	0
51		13/03/2019	75.00	Re-Installing media unit . £75 paid to Neil	0

				Walker for the electronic notice board.	
53	D35	16/03/2019	31.99	190318 inv-202-8146083-9224348. £31.99 paid to Neil Walker for the stainless steel notice board used by residents/visitors in the lobby.	31.99
		14/11/2019	31,039.20	Invoice from Oliver's Design House for lobby refurbishment including installation of new lighting	0
			<b>71,679.15</b>	<b>0.00</b>	<b>31.99</b>

## Appendix B – Issue 2

Item	Document no. (Dx)	Date or Start Date	Disputed Amount	Disputed Item	Tribunal decision (sum allowed)
<b>Legal Fees for Case GO1LS190</b>					
		various		Costs in relation to case G <b>GO1LS190</b>	
			<b>176,099.68</b>		<b>132,074.76</b>

## Appendix C – Issue 3

Item	Document no. (Dx)	Date or Start Date	Disputed Amount	Disputed Item	Tribunal Decision (sum allowed)
<b>3. EWS1 / Cladding Report</b>					
108	D46	17/02/2020	5,280.00	Cladding Report done by a chartered survey and not Chartered Fore Engineer. £5280	5280

#### Appendix D – Issue 4

Item	Document no. (Dx)	Date or Start Date	Disputed Amount	Disputed Item	Tribunal decision (sum allowed)
<b>4. PRIORITY HIGH - Pre-paid Electricity Meters</b>					
112	D50	28/02/2020	1,500.00	Inv. 10913. £1500.00 paid to Services Design Associates Ltd to design a system with pre-paid electric meters on the supply of GWEML and AML without their knowledge or permission	1500
113	D51	29/02/2020	2,874.00	Inv. 10912. £2874.00 paid to Services Design Associates Ltd to design a system with pre-paid electric meters on the supply of GWEML and AML without their knowledge or permission.	2874
118	D54	31/03/2020	1,350.00	Inv. 10943. £1350.00 paid to Services Design Associates Ltd to design a system with pre-paid electric meters on the supply of GWEML and AML without their knowledge or permission.	1350

121	D56	30/04/2020	8,375.41	£8375.41 for Fletcher Wood Electrical to install 2 pre-paid meters on the electrical supply of AML and GWEML/AML in contravention of the 1998 Transfer. Done without any notice and this also cut off the electricity several times to GWEML & AML.	8375.41
			<b>14,099.41</b>		<b>14099.41</b>

## Appendix E – Issue 5

Item	Document no. (Dx)	Date or Start Date	Disputed Amount	Disputed Item	Tribunal decision (sum allowed)
<b>5. PRIORITY HIGH - Service Charge Management - Missing Invoices / Receipts</b>					
2		18/09/2016	122.40	Reimburse train ticket to NEC £122.40.	122.4
19	D23 & D24	Various	9,588.72	There are 12 payments of £799.06 (each) to Neil Walker for "Water Heat Meter reading reconciliation..."	6000
31		12/09/2018	329.00	CCTV camera, £329.00 paid to Neil Walker	0
32		17/09/2018	80.00	Installation of digital signage, lift. £80 paid to Neil Walker.	0
38		Various	9,588.72	There are 12 payments of £799.06 (each) contained in the Expenditure Report payable to Neil Walker for "Water Heat Meter reading reconciliation..."	6500
58		02/04/2019	1,211.40	Director Reimbursement Feb/Mar 20. £1211.40 paid to Robert Nixon.	0
100		31/12/2019	225.00	Administration costs in relation to. £225.00 paid to Robert Nixon.	0
101		31/12/2019	5,000.00	Professional & Administration fees. £5000.00 paid to Neil Walker.	5000
104		Various	10,068.12	There are 12 payments of £839.01 (each) to Neil Walker for "Water Heat Meter reading reconciliation..."	7000
107		14/02/2020	38.99	Reimbursement of Director Expenses. £38.99 paid to Neil Walker.	38.99
		24/03/2020	36.23	Reimbursement of Director Expenses. £36.23 paid to Neil Walker.	36.23
120		28/04/2020	329.00	Purchase of 1 x CCTV Camera. £329.00 paid to Neil Walker.	0



128		08/06/2022	26.29	Reimbursement of Director Expenses. £26.29 paid to Neil Walker.	26.29
141		18/08/2020	100.00	CCTV- 1 Year Cloud Service. £100.00 paid to Neil Walker.	0
59	D37	05/04/2019	528.00	M2092 Disbursements. £528 paid to Watson.	528
156		Various	10,571.52	There are 12 payments of £880.96 (each) to Neil Walker for "Water Heat Meter reading reconciliation..."	7500
193				It is suspected that Neil Walker is still on a long-term contract for meter reading without consultation with Leaseholders or any sort of bidding process.	n/a
142	D80	18/08/2020	64.50	£64.50 paid for 2 x Storage Box - Lobby Parcel.	15
			<b>47,785.49</b>		<b>32,644.51</b>

## Appendix F – issue 6

Item	Document no. (Dx)	Date or Start Date	Disputed Amount	Disputed Item	Tribunal decision (sum allowed)
<b>6. PRIORITY HIGH - Reasonableness Payment</b>					
153	D91	20/12/2020	1,600.00	Neil Walker was paid £1600.00, including VAT for "Supply data and supporting analysis to Yorkshire water".	0
3	D1	01/09/2016	5,959.20	£5959.20 paid to Alarm Guys for new Paxton fobs/system.	0
4	D2	09/09/2016	1,460.59	Payment to Watson for Paxton system consultation and CCTV. £1460.59.	0
6	D4,D5,D6	14/12/2016	2,158.39	Red Apple. Cleaning 2 months, total £2158.39 [D3]. £1152.66 for a full month (Dec 2016). £646.00 for 1/2 a month (Nov 2016).	2158.39
7	D8	13/01/2017	1,152.66	Red Apple Cleaning for 1 month.	1152.66
8	D9	20/02/2017	1,956.55	£1956.55 for a service contract for 2 lifts.  This is an example other payments exist	1956.55
9	D10, D11	20/04/2017	312.00	£312.00 for an extra camera in the meter room.	0
10	D12	08/05/2017	72.00	£72.00 for legal advice on car parking licences.	72

11	D13, D14, D15, D16	17/05/2017	3,600.00	£3600.00 to Wheatley FM. No detail. Inv. 6248.	3600
12	D17	11/12/2017	450.00	Red Apple Cleaning for "Dog faeces" at £100.00 each (£300.00 total) and £150.00 for vomit. Grand total of £450.00	450
14	D19	16/10/2017	333.28	Inv no 6602 Various works. This includes a work order for £333.28 for an aborted visit to sort a leak in the cleaners' cupboard.	333.28
16	D21	13/12/2017	150.00	Inv no 1863 Install digital notice. £150.00.	0
20		Various	3,066.22	A category entitled "Works to Reception Area" is for the electronic notice board. They total £3066.22.	0
21		Various		Schindler had a service contract for 2 lifts.	
23		Various	6,963.95	Company Secretary Fees  £6,963.95	6965.95
24		Various	£14018.24 (2016) £4021.56 (2017) £10850.07 (2018) £20162.16 £20080.08 Unknown (2021	Planned preventative. Wheatley FM. This also includes, at times, general charges for OOH, but then CH is invoiced for OOH calls.	allowed in full £14018.24 (2016) £4021.56 (2017) £10850.07 (2018) £20162.16 £20080.08 Unknown (2021

25		Various		Management Fee to Watson PM	Allowed in full
27	D26	30/03/2018	300.00	Inv 14846 OOH call out- power failure. R.G. Buckle charged £300.00	300
29	D28	16/06/2018	280.00	Inv no 9210 Clean vomit £288.00. Paid to Red Apple Cleaning.	280
33	D30	08/10/2018	300.00	8 Inv No: 9301- Human faeces removal. £300.00.	300
36		Various	2,904.70	Red Apple charged £1452.35 a month for cleaning - Nov & Dec 2018	2904.7
45	D33	14/02/2019	480.00	Inv-9415 communal light shade cleaning. £480.00 paid to Red Apple.	480
102			1452.35	Red Apple charged £1452.35 a month for cleaning.	1452.35
114	D52	17/03/2020	459.36	£459.36 paid to Neil Walker for "Team Viewer".	0
119	D55	15/04/2020	3,612.35	Red Apple was paid £3612.35. This included £2160.00 for "Corona Clean" charged at £50.00 an hour.	3612.35
122	D57	15/05/2020	3,252.35	Red Apple was paid £3252.35. This included £1800.00 for "Corona Clean" charged at £50.00 an hour.	3252.35

129	D67	09/06/2020	1,752.00	200610 Inv No. 10314 - IS3676141. £1752.00 paid to the Alarm Guys to install 2 fixed CCTV cameras on the side of Candle House.	0
130	D68	15/06/2020	3,612.35	Red Apple was paid £3612.35. This included £1800.00 for "Corona Clean" charged at £50.00 an hour.	3612.35
134	D72, D73	30/06/2020	450.00	AGM Preparation- Secure Digital Hosting for Virtual AGM. £450 paid to Neil Walker includes VAT.	0
136	D75	15/07/2020	<del>3612.35</del> 3277.35	<del>Red Apple was paid £3612.35. This included £1825.00 for "Corona Clean" charged at £50.00 an hour</del>  Red Apple Invoice 15/07/2020 £3,277.35  Monthly Cleaning £1,210.29 corona Clean £1520.83	3277.35
143	D81	26/08/2020	75.00	Rawlings property maintenance for "paint door to cleaners cupboard". £75.00	75

148	D86	10/10/2020	180.00	Paid to Dean Franks for painting a wooden fire door. £180.	180
159	D95	02/02/2021	201.20	Wheatley FM charged £201.20 for a noisy water tank rom booster.	201.2
165	D101, D102	31/03/2021	900.00	Freeths for "ICO Complaint". Inv.235893 for £900.00.	900
168	D105	22/04/2021	300.00	Inv. 10209. £300 paid to Red Apple for Vomit.	300
169	D106	24/04/2021	789.60	Inv. 10097. £789.60 paid to Alarm Guys (Yorkshire) to put secret CCTV cameras in both lifts.	0
172	D109	25/05/2021	380.00	AGM Preparation-Secure Digital Hosting for Virtual AGM. £380.00 paid to Neil Walker includes VAT.	0
174	D111, D112	02/06/2021	300.00	Email sent from Rob Nixon to Watson approving £300.00 to be paid to "Naheem" for a 12 hour security shift.	
176	D114	24/07/2021	1,428.00	Inv. 11320. £1428.00 paid to Alarm Guys (Yorkshire) for enhancements to the 2 CCTV	0

				cameras in the lifts.	
178	D116	08/09/2021	660.00	Invoice (number unclear) paid to ARC Elevators for CCTV cameras in the lifts. £660.00.	0
186	D123	22/12/2021	149.99	Security Camera. £149.99 paid to John Lewis.	0
192	D192	Various	1,452.35	Red Apple charged £1452.35 a month for cleaning.	1452.35
196	D130, D131	24/03/2022	2,106.16	<p>Watson placed <del>£492.64</del> <sup>£541.50</sup> in charges (each) on the accounts of 115 Candle House and 117 Candle House. It is for "Costs relating to Solicitors letter regarding data breach."</p> <p>Total Cost £2,106.16 (£1,053.08 x 2)</p>	2106.16

## Appendix G – Issue 7

Item	Document no. (Dx)	Date or Start Date	Disputed Amount	Disputed Item	Tribunal decision (sum allowed)
<b>- Legal Fees - Case F40YJ381</b>					
26	D25	01/02/2018	144.00	Inv no 167 Pro fee (Candle) £144 This was paid to Nicholas Warren for advice on Case F40YJ381.	144.00
13	D18	26/07/2017	1,260.00	Inv no 95741 for £1260.00 paid to PM Legal Services	1,260.00
28	D27	30/04/2018	1,218.12	Inv 90274334 Electrical advice £1218.12. Payment to Freeths for advice on Case F40YJ381.	1,218.12
86	D39	25/09/2019	3,000.00	191016 Inv No. 91867133 - Professional fees for advice on money claim against AML. £3000.00 paid to Eversheds Solicitors.	3,000.00
106	d45	14/02/2020	500.00	West Yorkshire Police CCTV. Payment of £500 to Neil Walker "CCTV Evidence Retrieval for West Yorkshire Police against nuisance leaseholders Apt 75 David Overstreet/[sic]Ayesh a Grainger".	0
131	D69	16/06/2020	634.80	AML (F40YJ381) Expenses. Payment to Robert Nixson for £634.80.	0
163	D99	10/03/2021	119.59	Ref. Civ 3162. £119.59 paid to Martin Walsh Cherer for transcripts in case F40YJ381.	119.59



	<b>6,876.51</b>	<b>5,741.71</b>
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## Appendix H – Issue 8

Item	Document no. (Dx)	Date or Start Date	Disputed Item	Disputed Amount	Tribunal decision (sum allowed)
<b>8. - GWEML Service Charge Contribution</b>					
7	D7	Various	Various	104,966.28	104,966.28
18		Various	Various	100,572.99	100,572.99
37		Various	Various	120,320.94	120,320.94
103		Various	Various	104,575.83	104,575.83
135	D74		01/07/2020	142,451.46	142,451.46
152	D90		15/12/2020	189,920.36	189,920.36
124	D59		25/05/2020	94,982.56	94,982.56
195					
				<b>857,790.42</b>	<b>857,790.42</b>

Appendix I – Issue 9

Item	Document no. (Dx)	RMC Ref.	Date or Start Date	Disputed Amount	Disputed Item	Tribunal decision (sum allowed)
<b>9. - SUPPLIER ISSUES</b>						
30	D29	2121319	06/07/2018	120.00	Payment to Josh Lightowler for £120.00	120.00
34	D31	2162052	23/10/2018	100.00	£50 x 2months paid to Josh Lightowler	100.00
39		2217862	11/01/2019	14.50	Inv - 002891 pedestrian fob candle. Paid to the Alarm Guys £14.50	14.50
40		2217868	14/01/2019	8.50	Inv-002910 Pedestrian access fob. Paid to the Alarm Guys £8.50	8.50
41		221879	23/01/2019	8.50	Inv-002913 Pedestrian access fob. Paid to the Alarm Guys £8.50	8.50
42		2217883	26/01/2019	8.50	(SK) Inv-002926 Pedestrian access fob. Paid to the Alarm Guys £8.50	8.50
43		2267981	27/01/2019	300.00	190517 Inv-002945 secured. Paid to the Alarm Guys £300	300.00
44		2267982	27/01/2019	114.00	190517 Inv-002948 refixed. Paid to the Alarm Guys £114	114.00
46		2226674	21/02/2019	8.50	Inv-003014 fob for apartment 83. Paid to the Alarm Guys £8.50	8.50
47		2229015	22/02/2019	8.50	Inv-003021 Fob for apartment 51.	8.50

					Paid to the Alarm Guys £8.50	
48		222901 6	22/02/201 9	8.50	Inv-003022 Fob for apartment 56. Paid to the Alarm Guys £8.50	8.50
49		223966 2	28/02/201 9	804.00	Inv-003058 replace faulty. Paid to the Alarm Guys £804.00	804.00
52		224402 0	14/03/201 9	24.00	190325 Inv- 003089 fob Admin of. Paid to the Alarm Guys 24.00	24.00
54		224401 8	24/03/201 9	129.54	190324 Inv- 003105 Replace. Paid to the Alarm Guys £129.54	129.54
55	D36	225182 1	28/03/201 9	20.00	190328 Inv-6 clothes moth treatment. £20.00 paid to Been Pestered operated by Darren Smith from 9 Candle House.	20
56		225196 7	31/03/201 9	126.00	190408 Inv- 003141 Ground. Paid to the Alarm Guys £126.00	126.00
57		225202 0	31/03/201 9	390.00	190408 Inv- 003142 Supply and. Paid to the Alarm Guys £390.00	390.00
60		225209 5	08/04/201 9	575.66	190408 Painting of the roof furniture. £575.66 paid to Josh Lightowler.	575.66
61		225714 5	08/04/201 9	14.50	90423 Inv- 003151 fob for 137. Paid to the Alarm Guys £14.50	14.50

62		225221 0	09/04/201 9	20.00	190409 Inv-8 cloths moths activity. £20.00 paid to Been Pestered operated by Darren Smith from 9 Candle House.	20.00
63		225714 4	12/04/201 9	8.50	190423 Inv- 003157 Fob for 55. Paid to the Alarm Guys £8.50	8.50
64		225715 4	18/04/201 9	8.50	190423 Inv- 003166 fob for 112. Paid to the Alarm Guys £8.50	8.50
65		225922 2	23/04/201 9	8.50	190429 Inv- 003175 fob for 4. Paid to the Alarm Guys £ 8.50	8.50
66		225922 5	29/04/201 9	8.50	190429 Inv- 003192 fob for 69. Paid to the Alarm Guys £8.50	8.50
67		226724 9	14/05/201 9	8.50	190516 Inv- 003279 Access fob for Paid to the Alarm Guys £8.50	8.50
68		226722 8	16/05/201 9	558.00	190516 Inv- 003287 apartment 7. Paid to the Alarm Guys £ 558.00	558.00
69		228647 1	22/05/201 9	16.90	190605 Inv- 003311 Fob for 11. Paid to the Alarm Guys £16.90	16.90
70		231576 1	28/05/201 9	8.50	190813 Inv - 003270 Pedestrian fob. Paid to the Alarm Guys £8.50	8.50
71		228625 8	04/06/201 9	20.00	190604 Inv - 12 clothes moths on. £20.00 paid to	20.00

					Been Pestered operated by Darren Smith from 9 Candle House.	
72		232784 1	06/06/201 9	8.50	190906 Inv-003773 Fob for 59. Paid to the Alarm Guys £8.50	8.50
73		228750 5	07/06/201 9	90.00	190607 Inv-003374 Door to. Paid to the Alarm Guys £90.00	90.00
74		229904 9	01/07/201 9	8.50	190704 Inv-003459 fob for 91. Paid to the Alarm Guys £ 8.50	8.50
75		230518 8	18/07/201 9	20.00	190708 Inv-13 clothes moth. £20.00 paid to Been Pestered operated by Darren Smith from 9 Candle House	20.00
76		230518 8	18/07/201 9	90.00	190719 Inv-003531 attend. Paid to the Alarm Guys £ 90.00	90.00
77	D38	230524 3	19/07/201 9	78.52	190722 garden paint brushes and... £78.52 paid to Josh Lightowler. He is not qualified or a company. Not insured.	78.52
78		231563 9	09/08/201 9	40.00	190812 Inv-14 Clothes Moths. £40.00 paid to Been Pestered operated by Darren Smith from 9 Candle House.	40.00
79		232214 2	15/08/201 9	8.50	190903 Inv-003718 Pedestrian. Paid	8.50

					to the Alarm Guys £8.50	
80		239044 2	23/08/201 9	8.50	200117 Inv No. 003725 - Supplied 1x. Paid to the Alarm Guys £8.50	8.50
81		232214 4	03/09/201 9	8.50	190903 Inv- 003761 Pedestrian. Paid to the Alarm Guys £8.50	8.50
82		239044 3	12/09/201 9	8.50	200117 Inv No. 003799 - Supplied 1x . Paid to the Alarm Guys £8.50	8.50
83		239044 4	24/09/201 9	20.50	200117 Inv No. 003839 - Supplied 3x. Paid to the Alarm Guys £20.50	20.50
84		234095 3	25/09/201 9	8.50	190926 Inv No. 003843 - Supplied Apt 160. Paid to the Alarm Guys £8.50	8.50
85		234231 4	25/09/201 9	12.00	191016 Inv No. 003841 - IS2729144. Paid to the Alarm Guys £12.00	12.00
87		234051 1	30/09/201 9	180.00	191003 Inv No. 003890 - Attended on. Paid to the Alarm Guys £180.00	180.00
88		234090 1	30/09/201 9	54.00	191003 Inv No. 003884 - IS2729118. Paid to the Alarm Guys £54.00	54.00
89		234083 2	01/10/201 9	864.00	191009 Inv No. 003915 - Attended &. Paid to the Alarm Guys £864.00	864.00

90		239044 5	08/10/201 9	8.50	200117 Inv No. 003905 - Supplied 1x . Paid to the Alarm Guys £8.50	8.50
91		239044 7	10/10/201 9	8.50	200117 Inv No. 00003925 - Supplied 1x. Paid to the Alarm Guys £8.50	8.50
92		244130 4	21/10/201 9	14.50	200117 On no.003942 - IS2825376. Paid to the Alarm Guys £14.50	14.50
93		239044 9	22/10/201 9	20.50	200117 Inv No. 003943 - Supplied 3x. Paid to the Alarm Guys £20.50	20.50
94		234560 1	23/10/201 9	20.00	191024 Inv No. 15 - Attended & treated. £20.00 paid to Been Pestered operated by Darren Smith from 9 Candle House.	20.00
95		239045 3	31/10/201 9	8.50	200117 Inv No. 004045 - Supplied 1x. Paid to the Alarm Guys £8.50	8.50
97	d41	235102 2	06/11/201 9	40.00	Payment to Josh Lightowler for £40.00. Includes repair to carpet on stairs.	40.00
99	D43	238880 7	30/12/201 9	120.00	Payment to Josh Lightowler for £120.00. This includes putting up the CH Christmas Tree.	120.00
105	d44	239137 8	21/01/202 0	270.34	2020-001. Payment to (we believe) Josh Lightowler.£270. 34	270.34



110	D48	241675 3	28/02/20 20	300.00	Payment to (we believe) Josh Lightowler.£300.00	300.00
111	D49	241675 2	28/02/20 20	478.00	Payment to (we believe) Josh Lightowler. £478.	478.00
116	D53	243016 9	25/03/202 0	551.98	Invoice3. Payment to (we believe) Josh Lightowler.£551.98	551.98
123	D58	244502 5	17/05/202 0	331.98	Invoice4. Payment to (we believe) Josh Lightowler.£331.98	331.98
132	D70	246633 3	20/06/20 20	312.25	Payment to (we believe) Josh Lightowler £312.25	312.25
138	D77	248343 2	27/07/202 0	385.30	Invoice 6. Payment to (we believe) Josh Lightowler £385.30.	385.30
145	D83	250693 7	08/09/20 20	20.00	Been Pestered charged £20.00.	20.00
146	D84	250692 7	12/09/202 0	535.47	Invoice7. Payment to (we believe) Josh Lightowler.£535.47.	535.47
150	D88		02/11/202 0	600.00	Inv. 10052. £600 paid to Red Apple for: 1. Dog poo on floor 18 £300.00 2. Out of Hours (OOH) bin store clean (glass & gherkins) £300.00.	600.00
155		Various	Various		Red Apple charged £1452.35 a month for cleaning (2020)	allow
162	D98		10/03/202 1	250.00	Invoice 10. £250 paid to Josh Lightowler.	250.00
				9,233.44		9,233.44



Appendix J – Issue 10

Item	Document no. (Dx)	Date or Start Date	Disputed Amount	Disputed Item	Tribunal decision (sum allowed)
<b>10. - VARIOUS</b>					
1		18/05/2016	146.77	Stationery & refreshments - £146.77	146.77
5	D3	04/12/2016	146.95	Xmas tree & baubles. £146.95.	146.95
17	D22	15/12/2017	0.00	Landlord address (and ownership) changed. These details have been wrong since 15 December 2017 and all Service Charges issued since then should be rectified.	0.00
117		27/03/2020		The RMC and/or Watson blocked access to the building for the Leaseholders of 75 Candle House.	n/a
127	D65, D66	01/06/2020		The RMC and/or Watson permanently block the access to the Roof Garden for 75 Candle House. They admit this in Case G01LS190. There is no reason for this.	n/a
166	D103	13/04/2021	13.90	Invoice 200146506. £13.90 paid to Neil Walker for a key and postage.	13.90
167	D104	19/04/2021	5.99	Redacted invoice for a key. £5.99 paid to Amazon.	5.99
184	D121	22/11/2021	5.90	Receipt from Ryman for £5.90.	5.90
185	D122	22/11/2021	41.46	Various items from Amazon. This is for £41.46.	41.46
189	D126	28/12/2021	19.73	Amazon receipt for £19.73 for green tracing dye for a drain.	19.73

191	D128	?		Receipt from Wilko for toothpaste, kitchen roll, padlock and shampoo.	
194				Payments of £50.00 an hour to anyone should be stopped unless they can be justified.	n/a

## Appendix K – Item 11

Item	Document no. (Dx)	Date or Start Date	Disputed Amount	Disputed Item	Tribunal decision (sum allowed)
<b>11. PRIORITY - New Items</b>					
A1		04/01/2021	350.00	£350.00 paid to Neil Walker for "Live CCTV Monitoring".	0
A2		30/01/2021	100.00	£100.00 paid to Neil Walker for "Sundries/Reimbursement"	100
A3		02/02/2021	360.00	£360.00 paid to Red Apple for "OOH lift clean"	360
A4		02/02/2021	100.00	£100.00 paid to Neil Walker for "Sundries/Reimbursement"	100
A5		05/02/2021	550.00	£550.00 paid to Neil Walker for "Sundries/Reimbursement"	550
A6		15/03/2021	477.60	£477.60 paid to Neil Walker for "Lobby Digital Screen".	0
A7		15/08/2021	100.00	£100.00 paid to Neil Walker for "Google".	0
A8		25/08/2021	3,600.00	£3600.00 paid to Robert Nixson for "Feb 21-Freeths Call RE G01LS190 x 2 Hr"	3600
A9		27/08/2021	89.00	£89.00 paid to Neil Walker with only the description "Transaction ID: 6576933899"	0
A10		21/10/2021	200.00	£200.00 paid to Neil Walker for "Legal - Attend"	200
			<b>5926.6</b>		<b>4910</b>